IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

Bail Appl..No. 6541 of 2007()

CRIME NO.626/07 OF OLLUR POLICE STATION, THRISSUR
CC.545/2007 of J.M.F.C.-III,THRISSUR

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PETITIONER/10TH ACCUSED

SHINE THOMAS, S/O.THOMAS, AGED 19 YEARS,
CHULAYILLAPLACKAL HOUSE, NADATHARA DESOM,
NADATHARA VILLAGE, J.P.NAGAR, THRISSUR.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA,
REPRESENTING SUB INSPECTOR OF POLICE, OLLUR,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6541 of 2007

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Dated this the 5th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 10th accused in Crime No. 626 of 2006 registered for offences punishable, inter alia, under Section 27 of the Arms Act. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The petitioner is shown as absconding and warrant of arrest has been issued by the learned Magistrate.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. In fact after the alleged date of occurrence, the petitioner has already been arrested. He was questioned and produced before Court in connection with another crime. The petitioner's arrest was not recorded in this crime. Only to vex and harass the petitioner, he is shown to be absconding and final report has been filed. It is

prayed that the the petitioner may be granted anticipatory bail, notwithstanding the fact that cognizance has already been taken by the learned Magistrate. The petitioner apprehends that when he surrenders, considering the seriousness of the allegations, the petitioner may not be granted regular bail by the learned Magistrate.

3. The learned Prosecutor, after taking instructions, submits that the petitioner is involved in two crimes, i.e. Crime Nos. 621 and 626 of 2006 of Ollur police station, Trichur. The incident in the first case took place at 8.30 p.m. and the incident in the present case took place at 8.40 p.m. At 11.40 p.m. on the same night, the petitioner was arrested in Crime No.621 of 2006. He was produced before the Magistrate. Though his arrest was recorded in Crime 621 of 2006, his arrest was not recorded in Crime No.626 of 2006. The petitioner who was enlarged on bail in Crime 621 of 2006 was not arrested thereafter and hence he has been shown as absconding in this crime i.e. Crime 626 of 2006.

4. The learned Prosecutor, in these circumstances, submits that the State has no objection in anticipatory bail being granted to the petitioner, subject to appropriate conditions.

5. I am satisfied that anticipatory bail can be granted to the petitioner. After the decision in **Bharat Chaudhary** v. **State of Bihar** (AIR 2003 SC 4662), the petitioner, who apprehends arrest and detention in a crime after cognizance is taken by the learned Magistrate, can also be granted anticipatory bail in an appropriate case. In the absence of opposition, it is not necessary for me to advert to facts in any greater detail in this order.

6. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 12.11.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand

only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 13.11.2007 and thereafter as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 12.11.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 12.11.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 12.11.2007.

(R. BASANT)
Judge

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